

Translation

PATENT COOPERATION TREATY

PCT/JP2003/014877



PCT

535413

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PCT-03-NI04	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/JP2003/014877	International filing date (day/month/year) 21 November 2003 (21.11.2003)	Priority date (day/month/year) 22 November 2002 (22.11.2002)
International Patent Classification (IPC) or national classification and IPC C09K 15/06, C11B 5/00, A61K 31/202, 31/232, A61P 37/08, A61K 31/341, A23D 9/00		
Applicant NIPPON SUISAN KAISHA, LTD.		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 2 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

☒ Box No. I Basis of the report

☐ Box No. II Priority

☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

☐ Box No. IV Lack of unity of invention

☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

☐ Box No. VI Certain documents cited

☐ Box No. VII Certain defects in the international application

☐ Box No. VIII Certain observations on the international application

Date of submission of the demand 05 July 2004 (05.07.2004)	Date of completion of this report 03 March 2005 (03.03.2005)
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2003/014877

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- ☐ This report is based on translations from the original language into the following language _____, which is language of a translation furnished for the purpose of:
- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4)
- ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

- ☐ The international application as originally filed/furnished
- ☒ the description:
- pages _____ 1-26 _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- pages _____ 2-9 _____, as originally filed/furnished
- pages* _____, as amended (together with any statement) under Article 19
- pages* _____ 1, 10-20 _____ received by this Authority on _____ 17 December 2004 (17.12.2004)
- pages* _____ received by this Authority on _____
- ☒ the drawings:
- pages _____ 1-14 _____, as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP 03/14877

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1-20	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-20	NO
Industrial applicability (IA)	Claims	1-20	YES
	Claims		NO

2. Citations and explanations

Claims 1-20

In the written response, the applicant asserts that in the column pertaining to production example 2, document 1 cited in the international search report indicates the use of sesame oil and Aircoat® EC as the anti-oxidant components that are disclosed in the claims (specifically, claim 12), and also asserts that Aircoat® EC also comprises 70% lecithin in addition to vitamin E and vitamin C esters, that emulsification agents such as lecithin are known to exhibit an anti-oxidizing effect, and that therefore, document 1 does not specifically delimit the addition of only vitamin C esters or vitamin E. However, production example 2 includes a note in relation to Aircoat® EC, which reads "anti-oxidant agent: contains vitamin E and vitamin C esters," and conversely, document 1 indicates that lecithin is one type of highly unsaturated fatty acid (refer to paragraph [0007]); therefore, it is obvious that sesame oil, vitamin E and vitamin C esters are being used as anti-oxidant components in the light of the disclosures in relation to preparation example 2.

Consequently, as indicated in the written opinion, the inventions set forth in claims 1-20 could easily have been invented by a person skilled in the art in the light

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/JP 03/14877

of the invention disclosed in document 1.

Citation:

Document 1: JP 6-298642 A (Japan Tobacco Inc.)